

TENNESSEE MASSAGE LICENSURE BOARD

MINUTES

Date: February 14, 15, 2005

Time: 9:00 a.m. C.S.T.

Location: Big Tennessee Room
Ground, Cordell Hull Building
425 5th Avenue North
Nashville, TN 37247-1010

Members Present: Steve Harper, LMT, Chair
Juliana Glasgow-Trotman, LMT
Kirsten VandeBerg, LMT
Rebecca Eichel, LMT
Beverly Chumbley, RN, LMT
Marilyn Field

Members Absent: Effie Woods

Staff Present: Karen Robinson, Board Administrator
Marva Swann, Board Director
Robbie Bell, HRB Director
Dianne Birkner, Unit Manager
Richard Russell, Advisory Attorney
Robert Kraemer, Assistant General Counsel
Elisha Hodge, Litigating Attorney
Brandi Bozarth, Litigating Attorney
Jerry Kosten, Regulations Manager
Phillip Barber, Judge

A quorum being present, the meeting was called to order at 9:05 a.m.

Contested Cases – Unlicensed Establishments

Ms. Deanne Trent d/b/a Options Salon

Ms. Trent appeared before the Board to give explanation of operating an unlicensed establishment. Ms. Trent was not represented by an attorney. Ms. Hodge represented the State and Judge Phillip Barber presided over the hearing.

Ms. Trent testified on her behalf that she did own, operate and employ licensed massage therapists who performed massages at Options Salon without obtaining an establishment license as

required by law, from September 5, 2002 until November 27, 2002, February 28, 2003 until July 25, 2003, and August 22, 2003 until October 9, 2003.

After the Board asked Ms. Trent numerous questions regarding her unlicensed establishment, a motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to adopt the allegations of fact, causes of action, and assess a civil penalty plus court cost. The motion carried with a unanimous vote.

Mr. Harper stated that this action was taken to uphold the law, safety and welfare of the public.

Mr. James Nash d/b/a Healing Touch Center for Pain and Stress

Mr. James Nash appeared before the Board to give explanation of operating and performing massages in an unlicensed establishment. Mr. Nash was not represented by an attorney. Ms. Hodge represented the State and Judge Philip Barber presided over the hearing.

Mr. Nash testified on his behalf that he did own, operate and perform massage on the premises of Healing Touch Center for Pain and Stress from February 2002 through March 2004 in an unlicensed establishment.

After the Board asked Mr. Nash numerous questions regarding his unlicensed establishment, a motion was made by Ms. VandeBerg and seconded by Ms. Trotman to adopt the allegations of fact, causes of action, and assess a civil penalty plus court cost. The motion carried with a unanimous vote.

Consent Cases

Ms. Bozarth presented to the Board the following consent orders. Civil penalties were assessed plus court cost.

Samuel Lee, MVP Spa
Hair Benders Internationale, Est
Hartland/Genesis, Unlicensed
Elysse O'connor, Unlicensed
Teresa Mitchell, The Massage Mill

A motion was made by Ms. Eichel to accept the above consent orders and seconded by Ms. Fields. The motion was carried with a unanimous vote.

Ms. Hodge presented the following consent orders to the Board. Civil penalties were assessed plus costs.

Charolte Barks d/b/a The Millenium
Sharene Boykin
Charlotte Baker
Charlotte McCullough

Shallon Seely
VIP Family Spa
Michael Gold d/b/a Advanced Aesthetics
Sunshine Thurman
Krystal Gottfried
Amy Wallace
Stephanie Phillips
Lela Maddux d/b/a A Caring Touch

A motion was made by Ms. Eichel and seconded by Ms. VandeBerg to approve the above consent orders. The motion carried with a unanimous vote.

Rejected Consent Orders

Ms. Bozarth presented to the Board a consent order on Mr. David Pryor. A motion was made by Ms. Trotman to reject the consent order and seconded by Ms. Eichel. The motion carried with a unanimous vote.

Ms. Hodge presented to the Board a consent order on Mr. Gordon Bickel, II. A motion was made by Ms. Chumbley to reject the consent order and seconded by Ms. Trotman. The motion carried with a unanimous vote.

Continued Cases

Ms. Hodge presented to the Board the following two cases that will be continued.

Connie Hollandsworth d/b/a A Touch of a Feather
Fred Toler

A motion was made by Ms. Trotman to continue the two above cases and seconded by Ms. Eichel. The motion carried with a unanimous vote.

Dismissed Case

Ms. Hodge presented to the Board the following case that was dismissed:

SunPok Miller

Adjourned for lunch at 12:00 p.m. on 2-14-05

A quorum being present, the meeting was called to order at 1:00 p.m. on 2-14-05.

Default Order

Ms. Hodge presented to the Board a default order on the following licensee:

Chadwick Porter

A motion was made by Ms. Chumbley and seconded by Ms. Eichel to accept the default order, to revoke Mr. Porter's license, assess a \$1000.00 civil penalty plus court cost and appear before the Board before his license can be reinstated. The motion carried with a unanimous vote.

Rulemaking Hearing

A motion was made by Ms. VandeBerg and seconded by Ms. Trotman to approve a rulemaking hearing regarding mandatory criminal background checks for all new applicants, revisions regarding establishment personnel and renumbering statutes throughout the chapter. The motion carried with a unanimous vote.

A motion was made by Ms. VandeBerg and seconded by Ms. Trotman to adopt Rule 0870-1-.12 Continuing Education. The motion carried with a unanimous vote.

Minutes

A motion was made by Ms. VandeBerg and seconded by Ms. Chumbley to make changes in the minutes of the November 8 & 9, 2004 Board meeting and submit at the May 16, 2005 meeting for approval. The motion carried.

File Reviews

Spring Peterson – Ms. Peterson was requested to appear before the Board after the evaluation from Lighthouse Peer Assistance program. After numerous questions from the Board and the approved evaluation, a motion was made by Ms. VandeBerg and seconded by Ms. Trotman to approve Ms. Peterson for licensure. The motion carried.

Lewis Braswell - Mr. Braswell was requested to appear before the Board after the evaluation from Lighthouse Peer Assistance program. After numerous questions from the Board and the approved evaluation, a motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to approve Mr. Braswell for licensure. The motion carried.

Tanya Holt – Ms. Holt was requested to appear before the Board for writing bad checks. After numerous questions from the Board, a motion was made by Ms. Eichel and seconded by Ms. Trotman to approve Ms. Holt for licensure. The motion carried.

Jayson Sherrill – Mr. Sherrill was requested to appear before the Board after the evaluation from Lighthouse Peer Assistance program. After numerous questions from the Board and the approved evaluation, a motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to approve Mr. Sherrill for licensure. The Motion carried.

Bella European Spa, Inc, Sean Asberry - The Board reviewed Mr. Asberry's file. A motion was made by Ms. VandeBerg and seconded by Ms. Eichel to approve the establishment for licensure. The motion carried.

Charlie Via – Mr. Via was requested to appear before the Board after the evaluation from Lighthouse Peer Assistance program. After numerous question from the Board and approved evaluation, a motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to approve Mr. Via for licensure pending that Mr. Via complete a twelve step everyday program for ninety days and return to the Board after completion of program and results of evaluation and results from evaluator. The motion carried.

Damian Boggy – Mr. Boggy was requested to appear before the Board after the evaluation from Lighthouse Peer Assistance program. After numerous question from the Board and approved evaluation, a motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to approve Mr. Boggy for licensure with the following stipulations; that he remain with the Lighthouse Peer Assistance Program. The motion carried.

Adjourned at 5:25 p.m. on 2-14-05

A quorum being present, the meeting was called to order at 9:05 a. m. on 2-15-05.

Administrative Report

Ms. Robinson presented the statistical report which indicated the following:

Statistical Report

THERAPISTS	ESTABLISHMENTS
Active Licensees - 3267	Active Licensees - 802
Retired Licensees– 312	Retired Licensees – 109
Failed to Renew - 941	Failed to Renew - 171

Performance Measures

Performance Measure	Goal	Jan. – June 2004	Average
Renewal Processing Time	14 days	0.1 days	0.1
Application Processing Time	100 days	5.2 days	14.6

The application processing time is directly relative to the length of time it takes to receive a verification from the (NCBTMB).

The renewal times have dropped due to the continued usage of the internet renewal site. The application processing time can be attributed to staff reviewing incomplete files and re-contacting the applicants and the revision of the applications to make them more user friendly.

Ms. Robinson reported in September, seventeen licensees renewed their licenses via the website for a usage rate of 23% versus an overall usage rate of 18% for all professions. The administrative staff is asking that all board members get the word out about renewing online and would ask the board members use this tool to renew their licenses.

Massage Establishments can now renew online and be verified on the Internet site.

Ms. Robinson reported there has been some lessening of the restrictions on travel and purchasing. The mileage has increased to .38. Travel, purchasing and hiring are being approved on a case-by-case request, if there is a conference that a Board member would like to attend, please let the Administrative Office know so we can request appropriate authorization. We cannot guarantee any request will be approved, but we will submit the paper work.

Continuing Education Audit

Ms. Robinson reported the continuing education audit for the 2002 calendar year is continuing. Previously, the Board had voted on a penalty of one hundred fifty dollars (\$150.00) and the completion of six hours of additional continuing education. A total of 118 were audited for their 2002 continuing education credit hours. A total of 19 – 16.3% were sent to Investigations for either not responding or not complying with the audit. A total of 9 – 7.6% have paid the penalty and met the continuing education requirements. A total of 3 – 2.5% was granted a waiver. A total of 1 – 8% has been present at this Board meeting. A total of 1 – 8% paid a penalty, waiting for the continuing education to be submitted to the Administrative Office.

Financial Report

Ms. Robinson presented the financial report which indicated that the Board had a Projected Cumulative Carryover at June 30, 2004 of \$1,066,858.04.

Peer Assistance

Ms. Diann Smithson, Director, Lighthouse Professional Services, presented the peer assistance report. Ms. Smithson requested that peer assistance be added to the school curriculum. The Board requested for the issue to be addressed at the task force meeting.

Establishment Inspection Reports

Ms. Birkner, Unit Manager, presented the Inspection report which indicated the following:

	MIDDLE		EAST		WEST	
	INITIAL/RENEWAL		INITIAL/RENEWAL		INITIAL/RENEWAL	
November 2004	0	22	1	20	0	11
December 2004	0	19	0	7	0	0
January 2005	26	23	17	20	5	15
TOTALS	26	64	18	47	5	26
GRAND TOTAL	186					

One establishment in Middle Tennessee was cited for not having a smoke detector or a current copy of the massage therapist' license, one for no smoke detector, one for inadequate ventilation and one was cited for not having a current copy of the massage therapists' license.

One establishment in East Tennessee was cited for not having a fire extinguisher or smoke detector, one for not having a massage therapists' license and one for inadequate ventilation.

One establishment in West Tennessee was cited for not having a smoke detector.

Office of General Counsel (OGC)

Mr. Russell reported the following Amendments to Rules are pending approval by the Attorney General's Office:

Rule 0870-1-.02, .04, .11, .19, Specific procedures, mandatory exam, housekeeping
Effective 12-18-04

Rule 0870-1-.04, Ethics & Law course requirement, withdrawn 1-1-05

Rule 0870-1. 02, 05, 06, Inspection no-show, housekeeping, sent to Secretary States office

Mr. Russell then reminded the Board of their responsibilities under the conflict of interest policy.

Investigative/Discipline Reports

Massage Therapists

Ms. Bell presented the Investigative Report which indicates 2 new complaints were received in December, 4 were closed, 1 closed no action, 3 referred to OGC, and 12 cases are currently under investigation.

Massage Establishments

One complaint was received in December 2004, 1 closed, 1 referred to OGC, 3 currently under investigation.

Adjourned for lunch at 1:14 p.m. on 2-15-05

A quorum being present, the meeting was called to order at 2:16 p.m. on 2-15-05

Task Force

The Board of Massage Licensure has proposed several changes in the rules governing the operation of schools or programs teaching massage therapy in the State of Tennessee. These rules will cover school personnel, course content, reporting, and policies and procedures dealing with safety and emergency management.

A meeting was held on February 10, 2005 by the Board authorized Task Force to which all schools recognized by the Tennessee Higher Education Commission were extended a written invitation to attend in order to discuss and offer their views on these proposed changes. Out of twenty-six (26) schools, seventeen (17) were represented.

2006 Board Meeting Dates

The Board set the dates for the meetings in 2006

February 13&14, 2006

May 8&9, 2006

August 14&15, 2006

November 13&14, 2006

Election of Board Officers

A motion was made by Ms. VandeBerg and seconded by Ms. Chumbley that Mr. Harper would remain the Board Chair and Ms. Eichel was voted as Secretary of the Board. The motion carried with a unanimous vote.

The Board made a decision to have a retreat to discuss the following subjects:

Rule rewrite

Lighthouse Peer Assistance program contract

Jurisprudence Questionnaire

Legislation regarding massage therapy regulation and practice

Policy regarding unlicensed establishments and practice in unlicensed establishments

The newsletter

Ratifications

A motion was made by Ms. Chumbley and seconded by Ms. VandeBerg to approve the newly licensed and reinstatements for massage therapists and massage establishments. The motion carried.

New Massage Therapist

RHONDA ALLEN
LYNDA ANDERSON
ANITA ARMSTRONG
MICHAEL ASBROCK
FONTAINE BALLENGER
LESLIE BATES
SANDY BLAYLOCK
JESSICA BLEVINS
RUBY BLEVINS
ANDREA BOUCK
STEVEN BRAUN
AMANDA BRICKEY
ADAM BROBECK
RONDALL CARSON
RACHEL CARTER
ALEXANDRA CLARKE
ELISA CLOWERS
JENNIE COLEMAN
CHRISTINA COUSINS
MARY COWAN
KIMBERLY COX
KAREN CRAMER
LAUREN CRUM
LINDSEY DAWSON
AMANDA DODEZ
KAREN EFFLER
MICHAEL EMBREE
MARY FELDER
ROBIN GAMBA
NICOLE GREENE
SARAH GRIFFIN
GINALYN GURSKI
MASON HALL
DERYK HARVEY
TRACY HILLIARD
MEGAN HOFFMANN
ABIGAIL HOLBERT
DARLENE HOLCOMB
VICTORIA HORNBuckle
DAVID HOUSTON
DIANA ICKERS
ALMA IRELAND
TISH JOHNSON
DAVID LYLES

KAREN LYLES
TARA MARSHALL
ANN MARTIN
RINDI MASSARI
EMILY MCBRAYER
HEATHER MCINTOSH
LISA METTS
ANNIE MILLER
GARY MOORE
AMBER NAVE
WILLIAM OTT
TERRY OWENS
CHRISTY PEAVLEY
AMANDA PECKINPAUGH
BEVERLY PLESTED
MEREDITH POWELL
DARLENE RICHARDSON
MARIANNE ROBBINS
ANGELA ROBERTS
REBECCA ROBERTSON
DONNA SAMPSON
NICOLE SEALS
SHERRI SICKLER
JOHN SILLS
CECIL SMITH
AMANDA STARK
JOLIE SWANSON
BRENDAN SWEETMAN
MARY TALKOVIC
ERIN TALLEY
NAZANIN TASHAYOD
LISA TEMPLE
ANGELA THOMAS
JEFFREY THORNHILL
DANA TUMLIN
RACHEL VAUGHT
CLINTON WALKER
LORIE WARREN
CARRIE WATKINS
BRANDY WILLIS
CECILY WINGSONG
KIMBERLY WINN
LISA YOUNG
WILLIAM ZACCHI

Massage Therapist Reinstatements

JUDITH ADDINGTON
SIDNEY AMES
ELYSABETH BENEDICT
ANNA BURNS
NICHOLAS CREEKMUR
ELIZABETH DEETER
TONYA DICKIE
LISA GREEN
ANGELA HUMANN
JOHN NORMAN, JR.
TERA STANTON

New Massage Establishments

3 GARDENS CENTER FOR MASSAGE AND PSYCHOLOGY
A CARING TOUCH MASSAGE AND NAILS
A NEW BEGINNING MASSAGE THERAPY
A PERFECT YOU SOLUTION
ADAGIO MASSAGE CO. AND SPA
ADAGIO MASSAGE CO. AND SPA
ALMOST HEAVEN THERAPEUTIC MASSAGE
ALOHA PALMS
ANGELA THOMAS
AT PEACE MASSAGE THERAPY
AVANT-GARDE SALON
BALIQUE WORLD SPA
BEACH HOUSE, INC.
BELLA VITA DAY SPA
CAPOBIANCO CHIROPRACTIC, PC-DBA-CAPITOL CHIROPRACTIC
CARTHAGE MEDICAL CLINIC
DIANE BRUNSON HUMAN/EQUINE MASSAGE THERAPY
ELAN SKIN, LLC
ELEMENTAL TOUCH
ESSENTIALS SALON AND DAY SPA
EUROTOUCH SALON AND SPA
HANDS OF HEALTH AND RELAXZATION
HEAD TO TOE SALON SPA
HEALING ARTS MASSAGE THERAPY
HEALING HANDS THERAPEUTIC MASSAGE
HEAVENLY HANDS MASSAGE
HIGHERGROUND SALON AND SPA
JACKSON CHIROPRACTIC CENTER
KAREN J. LODEN, LMT
LIMB BY LIMB BODYWORKS

LISA PARCHMAN, LMT
LOTUS
MARY ALICE FELDER, LMT THERAPEUTIC MASSAGE & BODYWORK
MASS APPEAL FAMILY FITNESS
MERLE NORMAN COSMETICS STUDIO
MICHAEL KATHLEEN ASBROCK
NATURAL BEAUTY HAIR NAIL AND BODY SPA
NATURAL HEALTHCARE OF GERMANTOWN
NEURO TOUCH MASSAGE
NEW HORIZON MASSAGE AND BODY OF MARYVILLE
NURTURING MASSAGE THERAPY
PATSY FREEMAN, MASSAGE THERAPIST
RARE ENERGY
RON'S FAMILY HAIR DESIGN
SANOM'S FREE EDGE SALON
SERAPHIM SALON AND SPA, L.L.C.
SHARI'S SALON AND SPA
SMYRTLE'S ALLAY
SPATACULAR SALON
SUSAN NICHOLSON, LMT
SUTCH WONDERFUL MESSAGES
THE BEAUTY OF HEALTH
THE MASSAGE STATION
THE SUN SHACK
THE UNDERGROUND SALON
THERAPEUTIC BODYWORK
THERAPEUTIC MASSAGE AND BODYWORK
THERAPY CENTER
TODAY'S HEADLINES SALON
TOTAL LOOK
VIBRANT HEALTH CENTER, INC.
VILLAGE BODYWORKS
WEST TENNESSEE EYE CARE PC DBA TOYOS CLINIC

Continuing Education Waivers/Extensions

Ms. Danielle Rufener submitted a request to the Board for an extension of her 2003 and 2004 continuing education requirement of 25 hours. A motion was made by Ms. Chumbley and seconded by Ms. Trotman to approve the extension and requested the continuing education be submitted to the Board within six months. The motion carried.

Ms. Lisa Green submitted a request to the Board for a waiver of her 2003 and 2004 continuing education requirement of 25 hours. A motion was made by Ms. VandeBerg and seconded by Ms. Trotman to deny the waiver. The Board approved an extension and requested the continuing education be submitted within six months. The motion carried.

Mr. Daniel Bobrosky submitted a request to the Board for an extension of his 2003 and 2004 continuing requirement of 25 hours. A motion was made by Ms. Trotman and seconded by Ms. VandeBerg to approve the extension and requested the continuing education be submitted to the Board within six months. The motion carried.

Continuing Education Course Approval

A motion was made by Ms. VandeBerg and seconded by Ms. Eichel to approve the following continuing education course. The motion carried.

Diann Smithson & Richard Russell – Massage Law and Rules Update for 4.0 contact hours

NCBTMB Exam

Ms. Sally Hacking, Government Relations Consultant to NCBTMB appeared before the Board to give explanation of the new exam. The NCBTMB has changed the curriculum of the exam and put it into two separate exams, one exam is the Massage Therapy without the Eastern Oriental. The second exam is for Massage Therapy and Bodywork that has the Eastern Oriental, this will go into effect June 1, 2005.

After much discussion of keeping the national exam or grandfathering the people in for licensure that can not pass the national exam, a motion was made by Ms. Vandeberg and seconded by Ms. Trotman to keep the national exam and let the applicant choose what exam they wanted to take. The motion carried with Ms. Field and Ms. Chumbley voting to keep the exam and Mr. Harper and Ms. Eichel voting to do away with the exam.

Lighthouse Peer Assistance Program

The Board voted to renew Lighthouse Peer Assistance program contract for another year.

Consultants

The Board has invited the consultants of the Board to attend the next board meeting.

Adjournment

There being no further business, the meeting was adjourned at 4:30 p.m.

Rebecca Eichel, LMT, Secretary

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